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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,818	08/19/2003	Hans-Frieder Eberhardt	ZTP01P14003	5163

24131 7590 07/27/2005  
LERNER AND GREENBERG, PA  
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EXAMINER
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GILLAN, RYAN P

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,818	EBERHARDT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ryan P. Gillan	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/11/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 2,6,9-15 and 22-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by della Porta (4,938,667). Della Porta teaches a method for introducing and activating a getter in a vacuum vessel, which comprises: introducing the getter (328) packaged in a protective sleeve (322) into the vacuum vessel (300); closing off and evacuating the vacuum vessel (col. 2 lines 23-26); and opening the protective sleeve after the evacuation has commenced (Col.2 lines 32-35); which further comprises carrying out the opening of the protective sleeve by the action of an external pressure deforming the vacuum vessel during the evacuation to open the protective sleeve (col. 4 lines 43-45); which further comprises breaking the protective sleeve by contact with the vacuum vessel during the deformation of the vacuum vessel (col. 4 lines 43-45).

3. Claims 5, 7, 8, and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by TheiBen et al (4,704,068). TheiBen et al teach a method for introducing and activating a getter in a vacuum vessel, which comprises: introducing the getter packaged in a protective sleeve into the vacuum vessel (col.1 line 63- col. 2 line 2); closing off and evacuating the vacuum vessel; and opening the protective sleeve after the evacuation has commenced (col. 2 lines 10-14); which further comprises: filling the

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gastight protective sleeve with a protective gas (col. 2 lines 15-18); and one of bursting and opening up the sleeve by evacuating the vacuum chamber (col. 2 lines 10-14); which further comprises providing the sleeve as a flexible film (col. 2 lines 3-7); which further comprises bursting the sleeve against a projection in an interior of the vacuum chamber (col. 2 lines 7-10; whereas the sleeve is attached to the inner surface of the vacuum it will inherently come into contact with said surface, which will inherently comprise projections, if only microscopic). TheiBen et al also teach a getter unit, comprising: a getter; and a protective sleeve surrounding said getter, said protective sleeve being at least partly formed from a flexible film; wherein said film is under prestress at surrounding atmospheric pressure (col. 2 lines 3-7); wherein said protective sleeve has at least one breaking point; wherein said protective sleeve being at least partly formed from a flexible film opened after the evacuation of the vacuum vessel has commenced.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over TheiBen et al. TheiBen et al teach all of the limitations of claim 5 as cited above. In addition, the normal surface projections of a non-polished surface are considered readable on the claim language. However, even providing for a narrower interpretation of the

terminology "projection", it would have been obvious to one having ordinary skill in the art at the time of the invention to add a projection, significant in length and sharpness, to the interior of the vacuum in order to facilitate the bursting of the protective sleeve more quickly than otherwise possible, whereby reducing the force of the burst and minimizing any damage that could be caused to the interior of the vacuum or any other objects that might also occupy that space.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Nowobilski (5,328,336) teaches a getter capsule used to protect the getter material.
- Patterson et al (4,272,259) teach a fluid-tight container holding active getter material and non-absorbable gas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan P. Gillan whose telephone number is 571-272-8381. The examiner can normally be reached on 8:00 am - 4:30 pm; Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RPG

  
Timothy S. Thorpe  
Supervisory Patent Examiner  
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